

CITY ATTORNEY'S IMPARTIAL ANALYSIS OF MEASURE H

Measure H asks the electorate of the City of Benicia ("City") to consider the adoption of the City of Benicia Real Property Transfer Tax Ordinance ("Ordinance"). A companion measure, Measure G, is also being presented on the November 5, 2024, ballot. Measure G, if approved, would adopt the City of Benicia Charter which gives the City new powers over municipal affairs solely limited to municipal revenue including taxation and assessment, and a system for the imposition, levy and collection of a real property transfer tax. The adoption of the Charter is legally necessary to allow the City to enact a real property transfer tax which is a tax imposed when real property is sold. Measure H can only be approved if the voters approve Measure G.

Because this measure does not legally restrict the use of tax revenue to any specific purposes, it is classified as a "general tax," not a "special tax." As a general tax, the funds would go to the City's general fund, and be used for any valid municipal government purpose including roads, infrastructure, facilities, Police, Fire, and other City services.

The City is currently a general law city, governed by the laws of the State of California relating to general law cities. One of those general laws, California Revenue and Taxation Code Section 11911, authorized the City's current real property transfer tax rate of \$0.275 for each \$500.00 or fractional part of \$500.00. If Measure G passes, the City will have the authority to impose a real property transfer tax that exceeds the tax rates in the City's current ordinance, conditioned on Measure H also passing.

If adopted, the Ordinance would establish a new local tax on the conveyance of real property at the rate of \$4.00 per \$1,000.00 of valuation for properties \$2,000,000 and under, \$6.00 per \$1,000.00 of valuation for properties over \$2,000,000 to \$10,000,000, and \$8.00 per \$1,000.00 of valuation for properties over \$10,000,000. This will be in addition to the City's existing real property transfer tax.

The following examples demonstrate how the new tax is calculated:

A \$1,000,000 property sale is taxed \$4,000.
A \$2,100,000 property sale is taxed \$12,600.
A \$10,100,000 property sale is taxed \$80,800.

The Ordinance contains exemptions for sales to family members, allows buyers and sellers to negotiate among themselves as to who pays the tax, is subject to annual audit and citizen oversight, and may only be amended by voters.

A "yes" vote on Measure H adopts the Ordinance. A "no" vote on Measure H rejects the Ordinance; however, the current tax authorized by California Revenue and Taxation Code Section 11911 would remain in effect. Measure H will be adopted and the Ordinance will become effective only if both Measure G and H are approved by a majority vote.

Measure H was placed on the ballot by the City Council of the City of Benicia.

Submitted August 12, 2024.

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The above statement is an impartial analysis of Measure H. The full text of Measure H is printed in the Voter's Information Pamphlet and is also available on the City's website at : <https://www.ci.benicia.ca.us/elections>. If you desire a copy of the measure, please call the City Clerk's office at 707-746-4200 and a copy will be mailed at no cost to you.